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October 26, 2026

The Honorable Bill Cassidy
Chairman
The Honorable Bernie Sanders
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Brett Guthrie
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare & Medicaid Services: Patient Protection and Affordable Care Act; Temporary Moratoria on Certain Agent and Broker Registration To Participate in the Exchanges*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) entitled "Patient Protection and Affordable Care Act; Temporary Moratoria on Certain Agent and Broker Registration To Participate in the Exchanges" (RIN: 0938-AW26). We received the rule on October 9, 2026. It was published in the *Federal Register* on September 23, 2026. 91 Fed. Reg. 60317. The effective date of the rule is September 22, 2026.

According to HHS, this rule codifies HHS's authority to impose a temporary moratorium pausing the registration of agents and brokers that do not have a current Plan Year registration with the Federally-facilitated Exchanges at the time the moratorium is effective and are seeking to enter into Exchange agreements with CMS to assist consumers with enrollment through the Federally-facilitated Exchange and State-based Exchanges that use the Federal platform (collectively "Federally-facilitated Exchanges"). The rule further states that CMS, on behalf of HHS, is providing notice that the agency is immediately imposing a temporary moratorium to pause the registration of agents and brokers that do not have Plan Year 2026 Exchange agreements with the Federally-facilitated Exchanges and are seeking to enter into agreements with CMS to assist consumers with enrollment through the Federally-facilitated Exchanges for Plan Year 2027. HHS stated that agents and brokers that do not have Plan Year 2026 Exchange agreements with CMS will not be able to complete registration with the Federally-facilitated Exchanges for Plan Year 2027 until the moratorium ends on February 1, 2027.

The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. § 808(2). HHS stated that providing notice and an opportunity for public comment before implementing the temporary moratorium would be impracticable and contrary to the public interest because the effectiveness of the moratorium depends in substantial part on it taking effect before prospective agents and brokers who are subject to the moratorium have an opportunity to alter their conduct in response to advance notice of the impending restriction; otherwise, bad actors could take advantage of the notice-and-comment period to register, access training, and enter into Exchange agreements for the upcoming plan year. 91 Fed. Reg. at 60324, 60326.

Enclosed is our assessment of HHS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact me at (202) 512-8156.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Calvin E. Dukes II
Regulations Coordinator
Department of Health and Human Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE & MEDICAID SERVICES
ENTITLED
“PATIENT PROTECTION AND AFFORDABLE CARE ACT; TEMPORARY MORATORIA ON
CERTAIN AGENT AND BROKER REGISTRATION TO PARTICIPATE IN THE EXCHANGES”
(RIN: 0938-AW26)

(i) Cost-benefit analysis

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services, prepared an analysis of the costs and benefits of this rule. 91 Fed. Reg. 60317, 60327–33 (Sept. 23, 2026). HHS estimated annualized monetized benefits or transfers of \$334.3 million, at both three and seven percent discount rates, resulting from the prevention of improper expenditures and consumer administrative burden. *Id.* at 60327. HHS also estimated annualized monetized regulatory review costs of \$260,156, at a seven percent discount rate, and \$241,962, at a three percent discount rate. *Id.* at 60327–28. HHS further estimated annualized monetized transfers of \$19.2 million, at a seven percent discount rate, and \$17.9 million, at a three percent discount rate, resulting from the shifting of commission revenue from agents and brokers that do not have Exchange agreements to existing agents and brokers with such agreements. *Id.* at 60328. HHS also described non-quantified benefits, costs, and transfers. *Id.* at 60327–28.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

HHS stated that because this rule was not preceded by a general notice of proposed rulemaking, the Act does not apply to the rule. 91 Fed. Reg. at 60333.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

HHS determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. 91 Fed. Reg. at 60333.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

HHS issued this rule without prior notice and comment and without a delayed effective date, as generally required by the Administrative Procedure Act. 91 Fed. Reg. at 60323; see 5 U.S.C. § 553(b)–(d). HHS stated that good cause existed to issue the rule without notice and comment under 5 U.S.C. § 553(b)(B), which applies if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 91 Fed.

Reg. at 60323. HHS stated that providing notice and an opportunity for public comment before implementing the temporary moratorium would be impracticable and contrary to the public interest because the effectiveness of the moratorium depends in substantial part on it taking effect before prospective agents and brokers who are subject to the moratorium have an opportunity to alter their conduct in response to advance notice of the impending restriction; otherwise, bad actors could take advantage of the notice-and-comment period to register, access training, and enter into Exchange agreements for the upcoming plan year. *Id.* at 60324, 60326. For similar reasons, the agency determined there was good cause under 5 U.S.C. § 553(d)(3) to make the rule effective immediately. *Id.* at 60326.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

HHS determined that this rule contains no new information collection requirements under the Act. 90 Fed. Reg. at 60326.

Statutory authorization for the rule

HHS promulgated this rule pursuant to sections 1312(e), 1313(a)(5)(A), and 1321(a) and (c) of the Patient Protection and Affordable Care Act, Public Law 111-148 (Mar. 23, 2010).

Executive Order No. 12866 (Regulatory Planning and Review)

HHS stated that this rule is significant under the Order. 91 Fed. Reg. at 60327.

Executive Order No. 13132 (Federalism)

HHS stated that this rule is not expected to have federalism implications but nonetheless requested comment on any such implications. 91 Fed. Reg. at 60333.